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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,820	10/23/2001	Lars Johnsen	66386-372-7	1479

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/936,820	Applicant(s) JOHNSEN, LARS	
	Examiner Niki M. Eloshway	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-49 and 52-55 is/are rejected.
- 7) ☒ Claim(s) 50, 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on August 17, 2004 has been entered.

Claim Objections

2. Claim 40 is objected to because of the following informalities: On lines 3-4, the phrase "said third layer consisting of thermoplastics which covers the second layer," should be deleted since this limitation is already set forth on lines 2-3 of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 39, 49 and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (U.S. 4,473,163). Geiger teaches a lid assembly 1 comprising an outer lid 2 and an inner lid 3. The outer lid consists of a top part between lead lines 17 and 18, a cylindrical collar at 24, threads 5 and 6, and a single inwardly extending protrusion 23b.

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The outer lid of Geiger also includes protrusions 23a, c and d. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger without protrusions 23a, c and d, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

5. Claims 40-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (U.S. 4,473,163), as applied to claim 39 above, and further in view of Borges (U.S. 4,452,842). Geiger discloses the claimed invention except for the third layer. Borges teaches that it is known to provide a lidding material with a polyethylene third layer, located above a metal layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with a third layer, as taught by Borges et al., in order to protect the metal layer.

Regarding claims 41-48, Geiger discloses the claimed invention except for the second layer being made of aluminum. Borges teaches that it is known to provide a lid with a second layer made of aluminum (see col. 3 lines 7-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with the second layer consisting of aluminum, as taught by Borges, in order to give the metal layer the strength, flexibility and reduced weight characteristic of aluminum.

Regarding claims 42-48, Geiger discloses the claimed invention except for the first layer being made of low density polyolefins. Borges teaches that it is known to provide a lid with a first layer made of low density polyolefins (see col. 2 lines 58-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid assembly of Geiger with the first layer consisting of low density polyolefins, as taught by Borges, in order to give the first layer the sealing properties characteristic of low density polyolefins.

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Allowable Subject Matter

6. Claims 50 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments


7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. THIS ACTION IS MADE NON-FINAL.

9. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (571) 272-4538. The examiner is in the office on Thursdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Receptionist at (703) 308-1148.


Niki M. Eloshway/me
Patent Examiner
December 30, 2004